



**TETON COUNTY FIRE PROTECTION DISTRICT  
IMPACT FEE STUDY AND CAPITAL IMPROVEMENTS PLAN**

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Prepared May 4, 2012 for the Board of County Commissioners  
Public Meeting of May 17, 2012

**APPLICANT:** Teton County Fire Protection District

**APPLICABLE CODE:** Idaho State Statute 67-82 Development Impact Fees

**REQUESTS:** The Teton County Fire Protection District seeks to implement an Impact Fee. The following items need consideration:

1. Consider adoption of the BBC Research & Consulting *"Teton County Fire Protection District Impact Fee Study and Capital Improvement Plan (CIP)- April 15, 2009"*
2. Consider adoption of the Fire Districts' Amendment to the CIP and Impact Fee Study – April 18, 2012.
3. Consider approval of the proposed *"Intergovernmental Agreement Between Teton County, Idaho, City of Teton, City of Driggs, City of Victor and the Teton County Fire Protection District, Concerning the Collection, Payment and Use of Fire Protection Impact Fee."*
4. Consider directing the Planning & Zoning Commission to include the Fire Protection District CIP and Impact Fee Study as an element of the draft Comprehensive Plan, per State Statute.
5. Consider directing the Planning Staff to commence preparing a Fire Protection District Impact Fee ordinance to be amended into the County Code following its inclusion as an official element to the Comprehensive Plan.

**GENERAL CONSIDERATIONS:**

**1) What is the purpose of the proposed Teton County Fire Protection District's request?**

The request is to review the 2009 BBC Impact Fee Study and Capital Improvements Plan, including the methodologies employed and conclusions reached, and to examine the District's 2012 updates to the Impact Fee Study. These plans, study and amendment are at the foundation for an Intergovernmental Agreement that has been drafted for the County's consideration. Adoption of the plan, amendments, and Intergovernmental Agreement would ultimately lead to writing and implementing an impact fee ordinance.

**2) What are the basic Idaho state requirements that must be met in order to establish an impact fee?**

- a) 67-8206. (2) states: *"A capital improvements plan shall be developed in coordination with the development impact fee advisory committee utilizing the land use assumptions most recently adopted by the appropriate land use planning agency or agencies."*

- b) Include the CIP as an element of the Comprehensive Plan.

- c) Draft and approve an Impact Fee Ordinance into the County Code. Code amendments and ordinances must go through the Planning & Zoning Commission and then to the BOCC.

The three steps above must be completed prior to actually collecting an impact fee at the time of issuing a building permit. Idaho State Statutes (Title 67-Chapter 82 Development Impact Fees) outline the procedures to establish a development impact fee. First, the statute requires that a Capital Improvements Plan be devised to establish the future capital needs of the District. Essentially, the CIP study forecasts future growth and ties that projected growth to the District's need for additional capital facilities. Those facilities would be needed to provide service to new homes and businesses. The study determines the dollar amount an impact fee needs to be in order to fund the facilities. Lastly, a county ordinance would be drafted and written to outline the details of a Fire Protection District impact fee.

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**3) The County has an existing impact fee. Doesn't some portion of that fee go to the Fire District's future capital needs?**

No. The BOCC adopted a general CIP on October 20, 2008 and later approved an ordinance to collect the impact fees (Title 6, Chapter 9). That impact fee does not collect funds for the Fire Protection District. It collects impact fees for four other categories: the Sheriff Department, Emergency Services (ambulance service), Recreation (county fairgrounds), and Circulation (roads, bridges, trails, and facilities). The BBC CIP study estimates the future needs of the Fire District to service new homes and businesses.

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**4) If enacted, could the Fire District impact fees be used to catch up on the backlog of maintenance of the existing District facilities?**

No, impact fees are accrued in a separate account maintained by the Teton County Clerk and are to be spent on the specific facilities identified in the Fire Protection District CIP. Impact fees are not to be used to shore up deficiencies in facilities or equipment, but are to be used only for the additional facilities (or qualifying equipment) that are needed to serve new development. The section below is paraphrased from the state statute:

A development impact fee shall be calculated on the basis of levels of service adopted in the development impact fee ordinance. The construction, improvement, expansion or enlargement of new or existing public facilities for which a development impact fee is imposed must be attributable to the capacity demands generated by new development.

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**5) Why must the Fire District CIP and Development Impact Fee Study become an element of the Comprehensive Plan?**

Statute 67-8208 requires it: "For governmental entities required to undertake comprehensive planning pursuant to chapter 65, title 67, Idaho Code, such capital improvements plan shall be prepared and adopted according to the requirements contained in the local planning act, section 67-6509, Idaho Code, and shall be included as an element of the comprehensive plan."

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**6) What do the State Statutes say about Intergovernmental Agreements in regard to Development Impact Fees?**

"67-8204A Intergovernmental agreements. Governmental entities as defined in section 67-8203(14), Idaho Code, which are jointly affected by development are authorized to enter into intergovernmental agreements with each other or with highway districts, fire districts, water districts, sewer districts, recreational water and sewer districts or irrigation districts for the purpose of developing joint plans for capital improvements or for the purpose of agreeing to collect and expend development impact fees for system improvements, or both, provided that such agreement complies with any applicable state laws. Governmental entities are also authorized to enter into agreements with the Idaho transportation department for the expenditure

of development impact fees pursuant to a developer's agreement under section 67-8214, Idaho Code.”

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#### **CONSIDERATIONS ABOUT THE BBC STUDY:**

##### **7) Generally, what did the BBC study do?**

From page 6: *“Through data analysis and interviews with the District, BBC identified the share of each capital improvement needed to serve growth. The total projected capital improvements needed to serve growth are then allocated to residential and nonresidential development with the resulting amounts divided by the appropriate growth projections from 2009 through 2029.”*

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##### **8) Did the BBC Research and Consulting Fire District CIP and Impact Fee Study contain all that is required by the State statute?**

Yes, see the requirements and comments below. The statute says that a CIP must be prepared by a qualified professional and must contain the following:

(a) *A general description of all existing public facilities and their existing deficiencies within the service area or areas of the governmental entity and a reasonable estimate of all costs and a plan to develop the funding resources related to curing the existing deficiencies including, but not limited to, the upgrading, updating, improving, expanding or replacing of such facilities to meet existing needs and usage; See BBC study page 7. The study states “If the local governments implement impact fees, a significant financial burden on the District budget and existing taxpayers could be lifted. “ It goes on to state: “impact fees would allow the District to avoid accepting a decline in levels of service for the sake of a balanced budget.”*

(b) *A commitment by the governmental entity to use other available sources of revenue to cure existing system deficiencies where practical; The District receives sources of revenue from property taxes. Except for any grants it might obtain, the District’s budget is derived 100% from property taxes.*

(c) *An analysis of the total capacity, the level of current usage, and commitments for usage of capacity of existing capital improvements, which shall be prepared by a qualified professional planner or by a qualified engineer licensed to perform engineering services in this state; BBC was selected because it is comprised of qualified professionals.*

(d) *A description of the land use assumptions by the government entity; Section II of the study lays out the assumptions.*

(e) *A definitive table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of system improvements and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, agricultural and industrial; See Exhibit III-2.*

(f) *A description of all system improvements and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, to provide a level of service not to exceed the level of service adopted in the development impact fee ordinance; See Exhibit III-2.*

(g) *The total number of service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria; See Exhibit III-3.*

(h) *The projected demand for system improvements required by new service units projected over a reasonable period of time not to exceed twenty (20) years; See Exhibit III-2.*

(i) *Identification of all sources and levels of funding available to the governmental entity for the financing of the system improvements; See page 7- Alternative revenue sources.*

(j) *If the proposed system improvements include the improvement of public facilities under the jurisdiction of the state of Idaho or another governmental entity, then an agreement between governmental entities shall specify the reasonable share of funding by each unit, provided the*

governmental entity authorized to impose development impact fees shall not assume more than its reasonable share of funding joint improvements, nor shall the agreement permit expenditure of development impact fees by a governmental entity which is not authorized to impose development impact fees unless such expenditure is pursuant to a developer agreement under section 67-8214, Idaho Code; NA.

(k) A schedule setting forth estimated dates for commencing and completing construction of all improvements identified in the capital improvements plan. The commencement and construction of all improvements would depend upon the rate of building and receipt of associated impact fees.

### 9) What types of capital improvements can be paid for by collecting an impact fee?

From page 8 of BBC final report: "The types of costs eligible for inclusion in this calculation include any land purchases, construction of new facilities and expansion of existing facilities to serve growth over the next 20 years at planned and/or adopted service levels. Equipment and vehicles with a useful life of 10 years or more are also impact fee eligible under the Impact Fee Act".

### 10) What capital improvements did the Teton County Fire Protection District identify (in the BBC Study) to service future growth?

The table below lists over 10.6 million dollars worth of improvements that could be attributed to new growth by 2029.

#### Exhibit III-2. Teton Fire CIP – 2009-2029

Type of Capital Infrastructure	CIP Value	Times Portion <sup>13</sup>	Shared Facility Times	Shared Facility (% In Fee)	Amount to Include in Fees	Amount From General Fund
<b>Facilities</b>						
New FS 1 Driggs with Administration <sup>12</sup>	\$ 6,600,000	33%	100%		\$ 1,914,000	\$3,886,000
New Maintenance Facility Driggs <sup>13</sup>	\$ 750,000	33%	100%		\$ 247,500	\$502,500
New FS 2 Victor <sup>12</sup>	\$ 3,100,000	62%	100%		\$ 1,922,000	\$1,178,000
New FS 4 North West <sup>13</sup>	\$ 3,100,000	100%	100%		\$ 3,100,000	\$0
New FS 5 West <sup>13</sup>	\$ 3,100,000	100%	100%		\$ 3,100,000	\$0
<b>Vehicles</b>						
Heavy Rescue	\$ 350,000	62%	100%		\$ 235,907	\$144,093
Aircraft Rescue Fire Fighting	\$ 150,000	62%	100%		\$ 93,121	\$56,879
HazMat Support Unit	\$ 50,000	62%	100%		\$ 31,040	\$18,960
Technical Rescue Support Unit	\$ 85,000	62%	100%		\$ 52,769	\$32,231
2 Fire Engines	\$ 750,000	100%	100%		\$ 750,000	\$0
2 Water Tenders	\$ 700,000	100%	100%		\$ 700,000	\$0
2 Light Brush Trucks	\$ 160,000	100%	100%		\$ 160,000	\$0
<b>Equipment</b>						
New FS 4-5 Equipment Package <sup>14</sup>	\$ 288,933	100%	100%		\$ 288,933	\$0
<b>Total Infrastructure</b>	<b>\$ 18,413,933</b>				<b>\$ 12,595,271</b>	<b>\$5,818,662</b>
Plus Cost of Fee-Related Research						
Impact Fee Study	\$ 22,000	100%	100%		\$ 22,000	
Minus Optional Capital Transfer from General Fund for CIP Expenditures						
Transfer Surplus/Reserves to CIP Expenditures <sup>15</sup>	\$ (2,000,000)	100%	100%		\$ (2,000,000)	
<b>Grand Total</b>	<b>\$ 16,435,933</b>				<b>\$ 10,617,271</b>	

### 11) With the benefit of hindsight and the last few years of plummeting real estate in Teton Valley, what assumptions in the BBC Study needed to be reassessed?

The BBC study utilized the growth projections in the Teton County Comprehensive Plan 2004-2010. It used an annual growth rate of 6.4 % through 2020. From 2021 to 2029, which is the period for calculating the CIP, the growth rate was decreased to 2.8%. This rate was used because it is the State of Idaho's long-term growth rate. This high rate of annual growth until 2020 and then until 2029 would increase the County population by 164% to a total of 27,646 people. In hindsight with the economic downturn, the population of the county is no longer foreseen to almost triple in number in the next 17 years.

**12) What was the amount BBC calculated for the impact fee?**

The residential impact fee was calculated to be \$1621.00 and the nonresidential fee was 77 cents per square foot. Exhibit III-3 shows the breakdown of the fee for both residential and nonresidential growth. The study estimated that there would be almost 6000 new residences in the county by 2029.

**Exhibit III-3.  
Teton Fire Fee  
Calculation**

**Note:**

(1) From Exhibit III-2.

(2) From Exhibit II-3.

**Source:**

Teton Fire and Impact Fee Study Team.

Impact Fee Calculation	
Allocated Value for Future Fire Capital Improvements <sup>(1)</sup>	\$ 10,617,271
Future District Land Use <sup>(2)</sup>	
Residential (in dwelling units)	91%
Nonresidential (in square feet)	9%
Allocated Value by Land Use Category	
Residential	\$ 9,694,030
Nonresidential	\$ 923,241
Future District Development <sup>(2)</sup>	
Residential (in dwelling units)	5,980
Nonresidential (in square feet)	1,195,005
Calculated Impact Fee	
Residential (per dwelling unit)	\$ 1,621
Nonresidential (per square foot)	\$ 0.77

**CONSIDERATION S REGARDING THE FIRE PROTECTION DISTRICT'S  
AMENDMENT TO THE BBC STUDY:**

**13) Why did the Fire Protection District make amendments to the 2009 BBC Impact Fee Study?**

First, the population growth rate for the county in the BBC study seemed too high. Some unknown numbers of residents have already left the valley and employment opportunities have diminished in correlation to the construction of new spec-homes. Instead of a steady and steep increase in county population until 2029, the best estimates now can only look at longer-term growth rates that take into considerations the spikes and dips in growth that occur over longer periods. The growth rate of 2.8% annually may change given a longer period of record.

Secondly, the previously identified capital improvements were not consistent with the decreased rate of growth seen in the county. The capital needs for a higher population included the construction of new fire stations in Victor, and the western and northwest areas of the County. The new stations in the west and northwest areas were entirely attributed to new growth, see Exhibit III-2.

Lastly, the policy to encourage growth within existing population centers had not been previously addressed in the BBC study.

**14) Are the Fire Protection Districts' revisions more realistic growth projections than BBC's?**

There is little basis to assume that an average 6.4% annual growth rate would sustain itself for a few years, much less over a continuous 20-year period. Given this no-longer valid basic assumption, the District recalculated the projected county population in 2032. The 2012- 2032 period is for 20 years

and is the statutory planning timeframe for the CIP. Using an annual growth rate of 2.8%, the 2032 estimated population would be 18,210 persons. Obviously, the District's projected need for capital improvements would be less for this size population than a population of 27,646. The BBC study estimated an increase of 164% until 2029 and the new estimates would increase the population only 74% until the year 2032.

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**15) How do the District's revised demographic projections affect the impact fee imposed on individual builders?**

The District recalculated the population with the 2.8% growth rate and correspondingly decreased the capital needs. The BBC study estimated the 2029 capital needs to be \$16,435,933 with \$10,617,271 attributable solely to new growth. The revised estimate decreases the District's future capital needs to \$4,075,861. For a residential dwelling unit, the impact fee would be decreased to \$1382 and the nonresidential impact fee would decrease from 77 cents per square foot to 66 cents per square foot.

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**OTHER CONSIDERATIONS:**

**16) Will the cities of Driggs, Victor, and Teton all charge the same impact fee amount?**

Not necessarily. The District's letter of April 18, 2012 cites involvement of the fire protection advisory board, elected official and city /county planners in suggesting that the impact fee could be implemented at different rates in the county versus the cities. The county could choose, for example to implement the impact fee at 50%, which would be \$691 per new dwelling. Dwellings in the cities might assess the impact fee at a lower rate. The number suggested and advocated by some city officials was 25%, which would be a fee of \$345.

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**17) What reasons have been given as to why there might be different impact fee amount charged in the cities than would be charged for new development in the County?**

The service district for the Teton County Fire Protection District is the entire county. The BBC study employed a methodology that was based on a single district assumption. There was a discussion about having multiple service areas in the county, but in the end this approach was not deemed preferable.

Having devised a single capital improvement plan for the entire county, the individual jurisdictions may each enter into an intergovernmental agreement and each decision-making body has the capability of implementing the District impact fee at a lower amount than 100%. Concerns arose about placing additional fees on building permits because of the sluggish economy. Likewise, the pattern for future growth is being directed away from rural portions of the county and towards the cities and impact areas. Given this, it was deemed advisable to make the impact fees somewhat lower in the cities than in the outlying county.

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**18) Why isn't the impact fee paid up front by the developer rather paid by the individual home builder when they apply for a building permit?**

The need for a new fire station, fire truck, or training facility does not arise until dwelling and commercial structures are actually built. The impacts and need for facilities do not arise when a subdivision is platted but remains vacant with few or no residents.

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**19) Which type of building permits would be exempt from paying the Fire District Impact Fee?**

Building permits involving new dwelling units are assessed the impact fees. Likewise, all nonresidential building permits are assessed the impact fee on a square-foot basis. A home remodel

or addition does not generally require a fee assessment. However, if a guest house or new self-contained dwelling is proposed on a lot with an existing home, then the impact fee would be charged.

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**20) How could the Fire District CIP and Impact Fee Study be incorporated into the new Comprehensive Plan that is being formulated?**

If the Board were to accept the idea of assessing a Fire Protection District impact fee, then the BBC Study and the 2012 revised growth rate would be added as elements to the new Comp-Plan Chapter for Community Events and Facilities. The CIP study and revisions could be reviewed as a part of the new Comp-plan when it goes before the Planning & Zoning Commission and Board of County Commissioners.

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**RECOMMENDATIONS:**

- 1) The Board can decide whether the BBC Capital Improvements Plan and Impact Fee Study satisfy the basic requirements of State Statute 67-82 for Development Impact Fee Capitol Improvement Plans. If so, the Board could choose to adopt the 2009 study, but with the revised growth rates made in 2012 by TCFPD. The Board could make a motion to adopt the TCFPD Capital Improvements Plan and Impact Fee Study, which include the 2009 BBC study and the decreased growth rate and revised capital requirements as presented in the District's 2012 amendment.
- 2) The Board can make a decision to consider, modify, approve, or deny the proposed Intergovernmental Agreement between the Teton County, the three cities and the Fire Protection District.
- 3) The Board can make a determination that the ongoing Comprehensive Plan process should consider the BBC study, amendments, and Intergovernmental Agreement as part of the draft Comp-Plan.
- 4) The Board can direct the Planning and Zoning Staff to commence drafting a Fire Protection District Impact Fee ordinance, which could be reviewed by the Planning & Zoning Commission following adoption of the new Comp-Plan.

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**Attachments:**

**Idaho Statutes:**

Title 67- Chapter 8203 Development Impact Fees  
Title 67-Chapter 8204A Intergovernmental Agreements  
Title 67- Chapter 8206 Procedure for the Imposition of Development Impact Fees  
Title 67-Chapter 8208 Capital Improvements Plan

- BBC Research & Consulting: *Teton County Fire Protection District Impact Fee Study and Capital Improvement Plan April 15, 2009*
- TCFPD Amendment: *Capital Improvement Plan & Impact Fee Study, Final Report April 18, 2012.*
- Draft of "Intergovernmental Agreement Between Teton County, Idaho, City of Teton, City of Driggs, City of Victor and the Teton County Fire Protection District, Concerning the Collection, Payment and Use of Fire Protection Impact Fee".
- Impact Fee Fact Sheet (for existing impact fee distribution to Teton County departments)

## Impact Fee Fact Sheet

### Overview:

As communities grow, new development and building place heavier demands on existing public infrastructure and facilities. When this occurs, additional funds are necessary to meet increased demands. Idaho Code Title 67, Chapter 82 allows for impact fees to be collected by a local jurisdiction and set parameters to ensure that the fees are fair and equitable. The facilities/capital improvements encompassed by the impact fees are identified in Capital Improvements Plan (CIP) adopted by the Board of County Commissioners on October 20, 2008. The Board of County Commissioners also adopted Title 6, Chapter 9 of the Teton County Code. This ordinance allows for the collection of fees and establishes a purpose and procedure for calculation, collection, evaluation, review, monitoring and disbursement of the fees. This ordinance establishes collection of fees at the time of building permit issuance. These fees are accrued in separate accounts maintained by the Teton County Clerk and are to be spent within eight years with extensions up to eleven years on the specific facilities noted in the Capital Improvements Plan.

### Application of Impact Fees:

All new residential and non-residential construction will be subject to development impact fees. Additions and expansions of existing buildings are subject to the "intensification" determination.

**Residential** - For example, the remodel and/or addition of a residence creating a larger home would not be required to pay an impact fee. However, if this remodel included an apartment it would require an impact fee for the additional dwelling unit. Another example would be a single family home that is torn down and replaced with two dwelling units. This circumstance would require payment of one impact fee for the one additional dwelling.

**Non-Residential** – The expansion of a 6,000 sq. ft. building to 10,000 sq. ft. would intensify the use and increase the traffic generation rates for this site. In this example, the development impact fee would apply to the additional 4,000 sq. ft.

### Capital Improvements:

- **Recreation:**
  - Teton County Fair Ground Facilities (Table 9 – CIP)
- **Sheriff:**
  - Dispatch Center, Sheriff Facility, Office, Jail Facilities (Table 13 - CIP)
- **Emergency Services:**
  - Facilities for Vehicles, Training, Storage, and Equipment (Table 17 - CIP)
- **Circulation:**
  - Roads: 250 North, SH-33 to 275 East/800 West, Horseshoe Canyon North to SH-33/100 East N and S, 200 South to 500 South/400 North SH-33 to 800 West (Table 21 - CIP)
  - Facilities: Road and Bridge Facilities/Equipment (Table 21 - CIP)
  - Trails: Driggs to Tetonia/SH-33 from 400 N to 575 N/300 South/500 South/Cedron/450 W to 500 W/Bates Road/SH-33, 450 W to Ashton Trail/700 N Ashton Trail to SH-33, 575 N/ 600 North/400 W, 450 W Bates to SH-33/Hasting Lane, 200 North/Booshtway/ Ski Hill Road/Stateline Road/Horseshoe Canyon/600 South/SH-31,S-H33 to Pine Creek Pass. (Approximate trail lengths and specifics are noted in Table 24 - CIP.)





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## Idaho Statutes

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### TITLE 67 STATE GOVERNMENT AND STATE AFFAIRS

#### CHAPTER 82 DEVELOPMENT IMPACT FEES

##### 67-8203. DEFINITIONS. As used in this chapter:

- (1) "Affordable housing" means housing affordable to families whose incomes do not exceed eighty percent (80%) of the median income for the service area or areas within the jurisdiction of the governmental entity.
- (2) "Appropriate" means to legally obligate by contract or otherwise commit to use by appropriation or other official act of a governmental entity.
- (3) "Capital improvements" means improvements with a useful life of ten (10) years or more, by new construction or other action, which increase the service capacity of a public facility.
- (4) "Capital improvement element" means a component of a comprehensive plan adopted pursuant to chapter 65, title 67, Idaho Code, which component meets the requirements of a capital improvements plan pursuant to this chapter.
- (5) "Capital improvements plan" means a plan adopted pursuant to this chapter that identifies capital improvements for which development impact fees may be used as a funding source.
- (6) "Developer" means any person or legal entity undertaking development, including a party that undertakes the subdivision of property pursuant to sections 50-1301 through 50-1334, Idaho Code.
- (7) "Development" means any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for public facilities or the subdivision of property that would permit any change in the use, character or appearance of land. As used in this chapter, "development" shall not include activities that would otherwise be subject to payment of the development impact fee if such activities are undertaken by a taxing district, as defined in section 63-201, Idaho Code, in the course of carrying out the taxing district's public responsibilities, unless the adopted impact fee ordinance expressly includes taxing districts as being subject to development impact fees.
- (8) "Development approval" means any written authorization from a governmental entity which authorizes the commencement of a development.
- (9) "Development impact fee" means a payment of money imposed as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve development. This term is also referred to as an impact fee in this chapter. The term does not include the following:
  - (a) A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;
  - (b) Connection or hookup charges;
  - (c) Availability charges for drainage, sewer, water, or transportation charges for services provided directly to the development; or
  - (d) Amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements, unless a written agreement is made pursuant to section 67-8209(3), Idaho Code, for credit or reimbursement.
- (10) "Development requirement" means a requirement attached to a developmental approval or other governmental action approving or

authorizing a particular development project including, but not limited to, a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land, or money as a condition of approval.

(11) "Extraordinary costs" means those costs incurred as a result of an extraordinary impact.

(12) "Extraordinary impact" means an impact which is reasonably determined by the governmental entity to: (i) result in the need for system improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by section 67-8214(2), Idaho Code, or (ii) result in the need for system improvements which are not identified in the capital improvements plan.

(13) "Fee payer" means that person who pays or is required to pay a development impact fee.

(14) "Governmental entity" means any unit of local government that is empowered in this enabling legislation to adopt a development impact fee ordinance.

(15) "Impact fee." See development impact fee.

(16) "Land use assumptions" means a description of the service area and projections of land uses, densities, intensities, and population in the service area over at least a twenty (20) year period.

(17) "Level of service" means a measure of the relationship between service capacity and service demand for public facilities.

(18) "Manufactured home" means a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401, et seq.

(19) "Modular building" is as defined in section 39-4301, Idaho Code.

(20) "Present value" means the total current monetary value of past, present, or future payments, contributions or dedications of goods, services, materials, construction or money.

(21) "Project" means a particular development on an identified parcel of land.

(22) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project.

(23) "Proportionate share" means that portion of the cost of system improvements determined pursuant to section 67-8207, Idaho Code, which reasonably relates to the service demands and needs of the project.

(24) "Public facilities" means:

(a) Water supply production, treatment, storage and distribution facilities;

(b) Wastewater collection, treatment and disposal facilities;

(c) Roads, streets and bridges, including rights-of-way, traffic signals, landscaping and any local components of state or federal highways;

(d) Storm water collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;

(e) Parks, open space and recreation areas, and related capital improvements; and

(f) Public safety facilities, including law enforcement, fire, emergency medical and rescue and street lighting facilities.

(25) "Recreational vehicle" means a vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

(26) "Service area" means any defined geographic area identified by a governmental entity or by intergovernmental agreement in which specific public facilities provide service to development within the area defined, on the basis of sound planning or engineering principles or both.

(27) "Service unit" means a standardized measure of consumption, use,

generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.

(28) "System improvements," in contrast to project improvements, means capital improvements to public facilities which are designed to provide service to a service area including, without limitation, the type of improvements described in section 50-1703, Idaho Code.

(29) "System improvement costs" means costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering and other costs attributable thereto, and also including, without limitation, the type of costs described in section 50-1702(h), Idaho Code, to provide additional public facilities needed to serve new growth and development. For clarification, system improvement costs do not include:

- (a) Construction, acquisition or expansion of public facilities other than capital improvements identified in the capital improvements plan;
- (b) Repair, operation or maintenance of existing or new capital improvements;
- (c) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
- (d) Upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;
- (e) Administrative and operating costs of the governmental entity unless such costs are attributable to development of the capital improvement plan, as provided in section 67-8208, Idaho Code; or
- (f) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements identified in the capital improvements plan.

**History:**

[67-8203, added 1992, ch. 282, sec. 1, p. 861; am. 1996, ch. 366, sec. 1, p. 1226; am. 2002, ch. 347, sec. 1, p. 983; am. 2007, ch. 252, sec. 16, p. 753; am. 2008, ch. 389, sec. 1, p. 1068.]

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### TITLE 67 STATE GOVERNMENT AND STATE AFFAIRS

#### CHAPTER 82 DEVELOPMENT IMPACT FEES

67-8204A. INTERGOVERNMENTAL AGREEMENTS. Governmental entities as defined in section 67-8203(14), Idaho Code, which are jointly affected by development are authorized to enter into intergovernmental agreements with each other or with highway districts, fire districts, water districts, sewer districts, recreational water and sewer districts or irrigation districts for the purpose of developing joint plans for capital improvements or for the purpose of agreeing to collect and expend development impact fees for system improvements, or both, provided that such agreement complies with any applicable state laws. Governmental entities are also authorized to enter into agreements with the Idaho transportation department for the expenditure of development impact fees pursuant to a developer's agreement under section 67-8214, Idaho Code.

#### History:

[67-8204A, added 1996, ch. 366, sec. 3, p. 1232; am. 2007, ch. 167, sec. 1, p. 496.]

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## Idaho Statutes

[Printer Friendly Version](#)TITLE 67  
STATE GOVERNMENT AND STATE AFFAIRSCHAPTER 82  
DEVELOPMENT IMPACT FEES

67-8206. PROCEDURE FOR THE IMPOSITION OF DEVELOPMENT IMPACT FEES. (1) A development impact fee shall be imposed by a governmental entity in compliance with the provisions set forth in this section.

(2) A capital improvements plan shall be developed in coordination with the development impact fee advisory committee utilizing the land use assumptions most recently adopted by the appropriate land use planning agency or agencies.

(3) A governmental entity that seeks to consider adoption, amendment, or repeal of a capital improvements plan shall hold at least one (1) public hearing. The governmental entity shall publish a notice of the time, place and purpose of the hearing or hearings not fewer than fifteen (15) nor more than thirty (30) days before the scheduled date of the hearing, in a newspaper of general circulation within the jurisdiction of the governmental entity. Such notices shall also include a statement that the governmental entity shall make available to the public, upon request, the following: proposed land use assumptions, a copy of the proposed capital improvements plan or amendments thereto, and a statement that any member of the public affected by the capital improvements plan or amendments shall have the right to appear at the public hearing and present evidence regarding the proposed capital improvements plan or amendments. The governmental entity shall send notice of the intent to hold a public hearing by mail to any person who has requested in writing notification of the hearing date at least fifteen (15) days prior to the hearing date, provided that the governmental entity may require that any person making such request renew the request for notification, not more frequently than once each year, in accordance with a schedule determined by the governmental entity, in order to continue receiving such notices.

(4) If the governmental entity makes a material change in the capital improvements plan or amendment, further notice and hearing may be provided before the governmental entity adopts the revision if the governmental entity makes a finding that further notice and hearing are required in the public interest.

(5) Either following or concurrently with adoption of the initial or amended capital improvements plan, a governmental entity shall conduct a public hearing to consider adoption of an ordinance authorizing the imposition of development impact fees or any amendment thereof. Notice of the hearing shall be provided in the same manner as set forth in subsection (3) of this section for adoption of a capital improvements plan, and such hearing, at the option of the governmental entity, may be combined with the public hearing held to adopt, amend or repeal the capital improvements plan.

(6) Nothing contained in this section shall be construed to alter the procedures for adoption of an ordinance by the governmental entity. Provided, however, a development impact fee ordinance shall not be adopted as an emergency measure but may be read for the first and second times on successive days prior to the public hearing to consider its adoption and shall not take effect sooner than thirty (30) days following its adoption.

**History:**

[67-8206, added 1992, ch. 282, sec. 1, p. 868; am. 2006, ch. 321, sec. 1, p. 1019.]

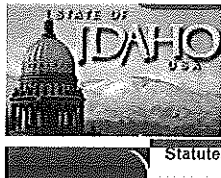
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## Idaho Statutes

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STATE GOVERNMENT AND STATE AFFAIRSCHAPTER 82  
DEVELOPMENT IMPACT FEES

67-8208. CAPITAL IMPROVEMENTS PLAN. (1) Each governmental entity intending to impose a development impact fee shall prepare a capital improvements plan. That portion of the cost of preparing a capital improvements plan which is attributable to determining the development impact fee may be funded by a one (1) time ad valorem levy which does not exceed two one-hundredths percent (.02%) of market value or by a surcharge imposed by ordinance on the collection of a development impact fee which surcharge does not exceed the development's proportionate share of the cost of preparing the plan. For governmental entities required to undertake comprehensive planning pursuant to [chapter 65, title 67](#), Idaho Code, such capital improvements plan shall be prepared and adopted according to the requirements contained in the local planning act, section [67-6509](#), Idaho Code, and shall be included as an element of the comprehensive plan. The capital improvements plan shall be prepared by qualified professionals in fields relating to finance, engineering, planning and transportation. The persons preparing the plan shall consult with the development impact fee advisory committee.

The capital improvements plan shall contain all of the following:

- (a) A general description of all existing public facilities and their existing deficiencies within the service area or areas of the governmental entity and a reasonable estimate of all costs and a plan to develop the funding resources related to curing the existing deficiencies including, but not limited to, the upgrading, updating, improving, expanding or replacing of such facilities to meet existing needs and usage;
- (b) A commitment by the governmental entity to use other available sources of revenue to cure existing system deficiencies where practical;
- (c) An analysis of the total capacity, the level of current usage, and commitments for usage of capacity of existing capital improvements, which shall be prepared by a qualified professional planner or by a qualified engineer licensed to perform engineering services in this state;
- (d) A description of the land use assumptions by the government entity;
- (e) A definitive table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of system improvements and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, agricultural and industrial;
- (f) A description of all system improvements and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, to provide a level of service not to exceed the level of service adopted in the development impact fee ordinance;
- (g) The total number of service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;
- (h) The projected demand for system improvements required by new service units projected over a reasonable period of time not to exceed twenty (20) years;
- (i) Identification of all sources and levels of funding available to

the governmental entity for the financing of the system improvements;  
(j) If the proposed system improvements include the improvement of public facilities under the jurisdiction of the state of Idaho or another governmental entity, then an agreement between governmental entities shall specify the reasonable share of funding by each unit, provided the governmental entity authorized to impose development impact fees shall not assume more than its reasonable share of funding joint improvements, nor shall the agreement permit expenditure of development impact fees by a governmental entity which is not authorized to impose development impact fees unless such expenditure is pursuant to a developer agreement under section 67-8214, Idaho Code; and

(k) A schedule setting forth estimated dates for commencing and completing construction of all improvements identified in the capital improvements plan.

(2) The governmental entity imposing a development impact fee shall update the capital improvements plan at least once every five (5) years. The five (5) year period shall commence from the date of the original adoption of the capital improvements plan. The updating of the capital improvements plan shall be made in accordance with procedures set forth in section 67-8206, Idaho Code.

(3) The governmental entity must annually adopt a capital budget.

(4) The capital improvements plan shall be updated in conformance with the provisions of subsection (2) of this section each time a governmental entity proposes the amendment, modification or adoption of a development impact fee ordinance.

**History:**

[67-8208, added 1992, ch. 282, sec. 1, p. 869; am. 1996, ch. 322, sec. 71, p. 1098; am. 1996, ch. 366, sec. 5, p. 1233; am. 2002, ch. 347, sec. 4, p. 990.]

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